



February 10, 2000

Mr. Habib H. Erkan, Jr.
Assistant City Attorney
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283-3966

OR2000-0496

Dear Mr. Erkan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132071.

The City of San Antonio (the "city") received a request for all documents submitted by MTS Seating in response to the city's Formal Invitation for Bid for Convention Center Expansion Furniture. You assert no exception to the release of the information. However, you inform us that the requested information may involve the proprietary or property interests of MTS Seating. Section 552.305(d) requires the city to notify the vendor of the request for an attorney general decision. You state that you have notified the vendor of the request. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). In order for this office to determine that information may be withheld from disclosure under section 552.110(a), a party must establish a prima facie case that the information constitutes a trade secret. Open Records Decision No. 552 at 3 (1990). Furthermore, to prevent disclosure of commercial or financial information under section 552.110(b), a party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure. *Id.* at 5.

MTS Seating did not submit to this office its reasons explaining why the requested information should not be released. Therefore, we have no basis to conclude that the responsive information is excepted from disclosure. *See* Gov't Code § 552.110(b). Thus, the city must release the requested information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

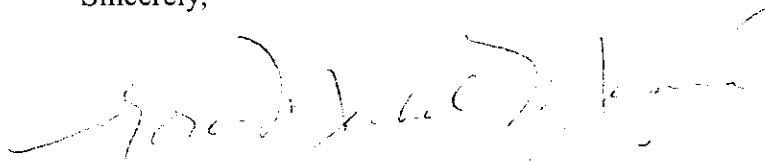
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM/jc

Ref: ID# 132071

Encl. Submitted documents

cc: Mr. Steve Noxon
Virco Manufacturing Corporation
P. O. Box 5000
Conway, Alaska 72033
(w/o enclosures)